

## Notice of Proposed Action

### Title 10: Bureau of Real Estate Appraisers

NOTICE IS HEREBY GIVEN that the Bureau of Real Estate Appraisers ("Bureau" or "BRE") is proposing to take the action described in the informative digest below. Any interested person may present statements or arguments relevant to the action proposed, orally or in writing, at a hearing to be held at:

Department of Consumer Affairs  
1747 North Market Blvd.  
1<sup>st</sup> Floor Hearing Room  
Sacramento, CA 95834

Date: September 18, 2014  
Time: 10:00am

Written comments including those sent by mail, facsimile, or email to the address listed under "Contact Person" in this Notice, must be received by the Bureau at its office not later than 5:00 p.m. on September 18, 2014 or must be received by the Bureau at the hearing.

The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 11313, 11314 and 11340, Business and Professions Code, and to implement, interpret or make specific Sections 11328, 11328.1, and 11340, Business and Professions Code; and Section 1112, Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73 (FIRREA) [12 U.S.C. 3341], the Bureau is considering changes to Section 3528 of Title 10 of the California Code of Regulations as described in this Notice.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

California Code of Regulations Section 3528 establishes that applicants shall meet the minimum requirements set forth in BRE regulations or those established by the federal Appraisal Qualifications Board (AQB), whichever is greater. California generally follows the federal standards.

In 2008, AQB increased the licensing standard and BREa amended Section 3528 to clarify the timeline for AQB's increased standard. That timeline is outdated and BREa proposes to remove the irrelevant language.

In December 2011, the AQB increased the minimum licensing requirements with an effective date of 1/1/2015. Existing authority implicitly establishes that applicants finishing all requirements in 2014 are subject to the requirements in effect in 2014 and applicants finishing all requirements in 2015 are subject to the requirements in effect in 2015. This proposed action makes that conclusion explicit and provides further related clarifications.

### **ANTICIPATED BENEFITS**

The benefits are broad. Clearly delineated rules grant affected parties a reliable guide by which to plan for meeting the education, experience, examination, and application requirements.

Clearly setting forth the applicability of requirements provides fair notice, allowing affected parties to plan accordingly. Clarity permits affected parties to navigate the application process without the unnecessary expenditure of resources inherent in vague or nonexistent rules.

Clarity also allows applicants to more confidently follow the application process thereby reducing the need for multiple follow-up questions and contacts. This increases government efficiency and transparency.

Clear rules obviate the need for costly legal hearings. This further preserves resources for all parties.

Finally, the proposed action meets the priority of the Bureau of Real Estate Appraisers: To protect the public in the area of real estate appraiser licensing, regulation and discipline.

### **CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS**

During the process of developing these regulations, the Bureau has conducted a search of any similar regulations on this topic and has determined that there is no reasonable interpretation of any state regulation that is inconsistent or incompatible with the proposed action.

### **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Cost to, or mandate imposed on, any Local Agency or School District for Which Government Code Section 17500-17630 Require Reimbursement: None

Business Impact: The Bureau has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: None

Cost Impact on Representative Private Person or Business: None

Effect on Housing Costs: None

As part of its Economic Impact Analysis, BREa has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services. The federally established minimum licensing requirements are mandatory for all 50 states, and they are changing on January 1, 2015 for all 50 states. Accordingly, this action does not affect California competitiveness. This proposal does not impact multiple industries.

Effect on Small Businesses: The majority of BREa appraiser licensees operate as small businesses. It is expected that most will not seek a different BREa-issued license from the one they already hold, and therefore will be unaffected by these regulations. Those that may seek a different license in 2015 and after will be subject to the amended regulations. However, these businesses will be subject to the increased AQB license requirements regardless if the regulation is amended. To the extent they are affected by these regulations, the clarifications set forth within will only serve to benefit navigation of the application process.

## **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

Impact on Jobs/New Businesses: The Bureau has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs, new or existing businesses, or the expansion of businesses in the State of California.

Benefits: The benefits will be increased clarity for certain license applicants. Clear rules preserve resources, increase efficiency, and provide transparency. Accordingly, this creates a positive impact to the general welfare of California.

Occupations/Businesses Impacted: The proposed regulation will not have an economic impact on individuals applying for a BREa-issued property appraiser credential, including individuals currently working in the appraiser profession.

Reporting Requirements: The proposed regulation does not set forth any new reporting requirements. The proposed regulation is relevant to licensing requirements, including the application process, but the proposed regulation does not affect those requirements.

Comparable Federal Regulations: None

### **CONSIDERATION OF ALTERNATIVES**

The Bureau must determine that no reasonable alternative considered by the Bureau or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above mentioned hearing.

### **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Bureau has prepared an initial statement of the reasons for the proposed action containing information upon which the proposal is based.

The proposed text, this notice, the statement of reasons, and any other relevant documents are on the Bureau's website at [www.brea.ca.gov](http://www.brea.ca.gov). Click the "Laws" tab at the top of the page. Under the heading "Rulemaking Notifications" find the docs associated with this rulemaking subject: "License Application Processing."

### **AVAILABILITY AND LOCATON OF THE STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. As of the date this notice is published in the Notice of Register, the rulemaking file consists of this notice, the proposed text of the regulation and the initial statement of reasons. Copies may be obtained by contacting person named below or by accessing the website as provided above.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, BREa may adopt the proposed regulation substantially, as described in this notice. If BREa makes modification which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before BREa adopts the regulations as revised. Please send requests for copies of any modified regulation to the attention of the contact person named below. BREa will accept written comments on the modified regulation for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the person named below.

### **CONTACT PERSON**

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Alec Stone, Legal Counsel  
1102 Q Street, Suite 4100  
Phone: 916-341-6126  
FAX: 916-440-7406  
[alec.stone@orea.ca.gov](mailto:alec.stone@orea.ca.gov)

The backup person is:  
Thu Tran  
1102 Q Street, Suite 4100  
Phone: 916-440-7876  
FAX: 916-440-7406  
[Thu.Tran@orea.ca.gov](mailto:Thu.Tran@orea.ca.gov)